

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application 14695 of John Dashtara, pursuant to 11 DCMR 3108.1, for a special exception under Sub-section 2003.1 to continue operation of an amusement arcade in a C-2-A District at premises 3255 M Street, N.W., (Square 1207, Lot 893).

HEARING DATE: October 21, 1987

DECISION DATE: October 21, 1987 (Bench Decision)

FINDINGS OF FACT:

1. The site known as premises 3255 M Street, N.W., is located on the north side of M Street, between Wisconsin Avenue and Potomac Street, N.W. The site is located in the C-2-A District.

2. The site comprises 3,190 square feet and is rectangular in shape with a frontage of 29 foot along M Street, and a depth of 110 foot. A ten foot wide public alley is located to the rear of the site. The site is improved with a one story brick structure.

3. The C-2-A extends in all directions from the site. The area is a major commercial center which accommodates a continual flow of vehicular and pedestrian traffic. An R-3 District is located a block northwest of the site. This area is developed primarily with row dwellings.

4. BZA order No. 13055 dated February 4, 1980 granted a special exception to the applicant to change a nonconforming use from retail sales of books, magazines, novelties, records and other related items (sexually-orientated business establishment) to a family amusement center. BZA order No. 13997 dated September 30, 1983 granted the applicant a special exception to continue to operate the family amusement center at the site for four years.

5. Pursuant to 11 DCMR 3108.1 the applicant is seeking a special exception under Sub-section 2003.1 to continue to operate the amusement arcade at the site as a nonconforming use.

6. In the prior Orders of the Board, the Board found that the use was a neighborhood facility, the use would not adversely affect the present character or future

development of the neighborhood, the architecture, signs and soundproofing were adequate, and no parking is required.

7. The facility has been operated in compliance with all the conditions imposed by the Board's previous Orders.

8. The use is owned and operated as a family amusement center by "TimeOut" Family Amusement Centers, Inc. Time-Out presently has a chain of seventy-six family amusement centers. Time-Out owns and operates all of its family amusement centers and does not franchise.

9. Time-Out offers its patrons a variety of electronic and mechanical amusement machines. To facilitate maintenance and to insure a clean environment, Time-Out enforces a policy of no smoking, food, beverages, gambling or loitering. These rules are enforced through Time-Out's uniformed security attendants who are visible on duty during every hour. In addition to security and crowd control, the attendants provide change and instruction to patrons of the facilities. All store employees are governed by a store policy and procedure manual compiled over a seven year period to guide them in dealing with every possible situation. Time-Out supports its supervision of all stores. In addition to the regional manager, each store receives a detailed physical inspection by company headquarters regularly to insure compliance with established policies and procedures.

10. There will be no change in the amount of space devoted to the use, the design of the facility or the signage.

11. There has no change in the commercial been nature of the area or the pedestrian traffic since the Board's prior approval of this use.

12. The hours of operation of the subject facility are from 10 A.M. to 12 midnight, Monday through Saturday and from 1 P.M. to 9 P.M. on Sunday. No change in the hours of operation is sought.

13. The entertainment provided, which consists of a variety of electronic and mechanical amusement games, is suitable for all age groups. The clientele consists of people who reside, shop or visit in Georgetown.

14. Noise and vibrations from the mechanical amusement machines have been minimized by masonry division walls and soundproofing.

15. The majority of the patronage of Time-Out is from existing pedestrian traffic. Little or no vehicular traffic is generated by the use. No on-site parking is provided.

Any traffic which is generated can be accommodated in commercial parking lots located within 300 feet of the site.

16. The lessee has received no complaints regarding the day-to-day operation of the facility.

17. By letter dated October 12, 1987 Advisory Neighborhood Commission 2E reported that it voted to recommend approval of the application for a period of four years. The Board concurs with the recommendation of the ANC.

18. Numerous letters were submitted to the record in support of the application by neighboring businesses who stated that the site was operated and maintained in a professional manner.

19. Two letters were submitted to the record by neighbors in opposition to the application. The letters stated that the operation attracts a very bad group of young people and has contributed to a deterioration of the neighborhood. The Board does not concur and finds that the use does not attract a clientele who would not otherwise be in the neighborhood.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order for the requested relief to be granted, the Board must find that the applicant complies with the requirements of Sub-section 2003.1 of 11 DCMR. The Board concludes that the applicant has met the burden of proof. The amusement center is a neighborhood facility. The present character and future development of the neighborhood has not been and will not be adversely affected by the continuation of the subject use. The general character of uses and structures within 300 feet of the subject property are commercial. The architecture, signage and soundproofing of the facility are adequate and minimal parking demand is generated by the use. The Board notes that Sub-section 2003.6 is not applicable to the instant application in as much as the facility is a commercial one in a commercial district.

The Board concludes that the issues and concerns of the Advisory Neighborhood Commission have been given "great weight," as evidenced by the conditions hereinafter imposed.


The Board further concludes that the relief requested can be granted as being in harmony with the purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. Approval shall be for a period of FOUR YEARS from the date of expiration of the last BZA approval, namely from February 4, 1987.
- b. There shall be no exterior flashing or neon lights on the outside of the building.
- c. Any illumination inside the premises shall be set back at least eighteen inches from the face of the windows.
- d. Any persons under twelve years of age shall be accompanied by an adult at all times while on the premises.
- e. The hours of operation from Monday to Saturday shall not exceed 10:00 A.M. to 12:00 Midnight. The Hours of operation on Sunday shall not exceed from 1:00 P.M. to 9:00 P.M.
- f. No child fourteen years of age or younger shall be admitted between the hours of 10:00 A.M. and 3:00 P.M., on days when school is in session.
- g. There shall be no sale of food or beverages on the subject premises.

VOTE: 5-0 (Patricia N. Mathews, Paula L. Jewell, William F. McIntosh, Charles R. Norris and Carrie and L. Thornhill to grant.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

DEC 31 1987

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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